

R E P O R T

RELATIVE TO

THE OBSERVANCE OF THE SABBATH,

MADE TO THE

HOUSE OF REPRESENTATIVES.

MR. MEEK, CHAIRMAN.

HARRISBURG:

J. M. G. LESCURE, PRINTER TO THE STATE.

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1850

ITANIA'S RIVER TO SOLVING THE PROBLEM

BY ITALIANA'S VILLAGE POSITION

REPORT.

The committee to whom was referred the bill from the Senate, exempting the Seventh Day Baptists from the operation of the Sabbath laws of this Commonwealth, have instructed their chairman to make the following report :

The memorialists ask that a law may be enacted to exempt them from the provisions of the first section of an act, entitled "An Act for the prevention of vice and immorality," &c., passed 22d April, 1794, which section provides that "if any person shall do or perform any worldly employment or business whatsoever, on the Lord's Day, commonly called Sunday, works of necessity and charity only excepted," &c., "every such person so offending, shall for every such offence, forfeit and pay four dollars," &c., &c.

In accordance with the prayer of your petitioners, the Senate has passed a bill, entitled "A supplement to an act," &c., which provides, that nothing contained in the first section of the act to which it is a supplement, so far as the same relates to the performance of worldly employment or business, on the Lord's Day, commonly called Sunday, shall be construed to extend to any person or persons who conscientiously observe the Seventh day of the week as the Sabbath, and are guilty of no disturbance of the religious worship of others; &c.

This bill, thus brought before us, your committee think, after the most mature reflection, should not receive the concurrence of the House.

The memorialists set forth, that they regard the seventh day of the week as the divinely appointed Sabbath, and cannot conscientiously regard as the Sabbath the first day of the week. They ask, or rather claim, exemption from the operation of the statute now in force, as a right secured to them by the great constitutional provision of this republic, securing to all its citizens liberty of conscience.

To this appeal no true republican can be insensible. We hold liberty of conscience to be one of our most valuable rights. Nor can we conceive of any thing more impolitic than for a government to array itself against the consciences of the governed. But it occurs to the committee, that the plea of liberty of conscience may be urged for the enactment or repeal of laws inseparably connected with the public welfare. We ask, whether the very nature of government does not require, that in some contingencies, this liberty should be subject to restrictions?

Under the most liberal forms of government, it must be the condition of some—often of a large minority—to submit to laws to which they are sincerely and strongly opposed, and which they could not conscientiously enact and support if they were in power. But if no law can be enacted and enforced against which a minority may conscientiously protest, there can be no government. One class may object to one law, and another class to another law, until all great public interests are abandoned to utter insecurity.

We admit, that cases may happen in which the law objected to is not to be regarded as conflicting merely with the settled convictions of the objectors, as to what is most conducive to the welfare of the community, considered in a moral, or in a pecuniary point of view; but as directly contravening a clearly revealed law of God, and placing them under the necessity of practically determining whether they will obey God, in violation of the laws of man, or those of man, in violation of the law of God. Hence the question arises, whether cases may not occur in which the interests of the whole

community, absolutely require legislation upon certain interests in despite of the conscientious scruples of a part.

It may not be necessary to elaborate this point further than to say, that a very respectable and useful portion of the American community are so opposed to war, under any conditions, that they cannot, without a violation of their consciences, carry arms, or voluntarily bear any of the burdens of war. To either of these acts they prefer fines or imprisonment, or any penalty which government may impose. The law relieves them, with some other classes of citizens not entertaining the same scruples, from the necessity of carrying arms, but still requires them, against their consciences, to contribute that which has been, not inappropriately, denominated "*the sinews of war.*"

There are some in our own country, who believe that ours is not a Christian government, because it makes no public provision for the maintenance of religion. They hold that religion should be not only protected, but supported by the State, and because our government is delinquent in this respect, their consciences will not even allow them to vote at our elections, or in any way give implied sanction to our national Constitution. To such consciences, it must be admitted, our law-givers can afford no relief. The case is one in which the parties must inevitably endure the inconvenience of having formed conscientious convictions which conflict with the conscience of the mass and the fundamental principles of our social organization.

The consciences of some American citizens, have compelled them to go within the bounds of the slaveholding States, for the purpose of inducing and aiding the escape of slaves from their owners. But we think that the success of an application on their part for exemption from the legal penalties incurred by conforming their conduct to their consciences in this respect, would be more than doubtful. The consciences of others require them to interfere with the execution of existing laws respecting the recovery of fugitive slaves. Any one acquainted with the history of this country, cannot be unapprized of the fact, that to conform entirely the laws of the land to the consciences of all its subjects at the present time, would require the dissolution of the union of these States.

Should the gold mines, or placers of California, attract to that country a party of Pagans from Asia, whose system of religion requires the offering of human beings in sacrifice, is it conceivable that an American legislator or jurist would so construe the declarations, that "all men have a natural and indefeasible right to worship Almighty God according to the dictates of their consciences," and "that no human authority can in any case whatever control or interfere with the rights of conscience," as to make them extend their protection to the horrid rites of this bloody superstition?

The intention of these illustrations is not to attach odium to the memorialists, by placing them in comparison with heathens or those whom they may deem fanatics, but merely to show that there may be instances in which the most liberal and equitable government must of necessity come into conflict with the religious convictions of some of its subjects.

Whether the learned jurists who constitute the highest judicial tribunal of the Commonwealth, and who are stigmatized in pamphlets circulated through the House by the memorialists, as "Religious zealots," erred, when to the regret of the memorialists, they decided that the act of 1794, comes within the spirit and meaning of the foregoing constitutional provisions, will depend upon whether the rights and privileges of the community at large would or would not, by a contrary decision, be sacrificed for the benefit of a few.

Can the bill devised by the memorialists and passed by the Senate, become a law with safety to the rights and interests of the public? Will not the injury done to the many be incalculably greater than the benefit resulting to the few?

The enforcement of the observance of the Sabbath so far as abstinence from secular employments is concerned, by civil statute, is not the result of bigotry or superstition, but results from a profound conviction of its importance to the public welfare. The Sabbath is believed to be of immense value as an occasion of rest from bodily and mental toil, and as furnishing opportunity for religious reading—for private, and for

social and public worship, and for the training of children. It is the only opportunity which many laboring men have of being with their families and instructing, and otherwise influencing those for whose character and conduct the Providence of God and the law of the land hold them responsible. It is the time set apart specially for the cultivation of the moral dispositions—the heart of the community, which is believed to be not less important than the cultivation of its intellect.

To secure these advantages some one day must be agreed upon by the whole community. It is not meant that the selection of the day is left to human expediency, but as different opinions are entertained respecting the day divinely consecrated, this question must be settled for practical purposes. The multiplication of weekly Sabbaths, it is believed, would to a great extent, if not wholly, defeat the design of the institution.

The memorialists claim that the seventh day of the week is the day indicated by divine authority. It is not necessary to discuss here the grounds of this belief. We presume that the arguments which they have presented to the Legislature upon the point in their tracts and pamphlets, are not designed to make converts, but merely to show that this peculiarity of the faith, is not to be attributed to capriciousness or obstinacy, or incorrigible ignorance, but can be recommended by at least plausible reasoning. It is sufficient for us that the first day of the week is generally believed to be the true Sabbath. It is the Sabbath of the United States of America. It is the Sabbath of Christendom.

The pursuance of secular business on the Lord's Day, is believed by the committee to inflict great social injustice. Suppose it to be done by farmers or others, of this persuasion, the effect may be that they will gain real or apparent advantages in the market, and others will be compelled, or will think themselves compelled, to pursue the same course in order to a successful competition. The injury will be greatly augmented, when the principal in business has many hands in his employ. They are denied the periodical rest to which they are entitled; or if for the convenience of business another day is substituted for the Lord's Day, it cannot supply the religious privileges called for by their moral and spiritual wants. To secure these privileges, as well as to preserve untainted their consciences, American citizens have been obliged, under circumstances of great hardship, to turn away from employments, for which they were specially fitted by their talents and education. It is believed that the Sabbath desecration, which is allowed by the laws of this State, regulating her public works, compels thousands of her best men to relinquish their birth-right or the employment upon which they depend for subsistence.

Hence the necessity of civil legislation respecting the Sabbath. It is necessary to protect the community, the laboring portion especially, in the possession and enjoyment of invaluable rights and privileges, civil and religious, which have descended to them from the Author of their being, and also from the founders of the Republic and of the Commonwealth.

The memorialists object that the laws of which they complain are unconstitutional, because of the nature of an ecclesiastical law, as it assumes to decide what is divine law, and to enforce it as such.

The committee have no hesitancy in conceding or affirming that it is not the province of the Legislature to ascertain what are the laws of God, or to re-enact and enforce them by civil penalties when ascertained by others. Nor is this even chargeable upon those by whom the obnoxious Sabbath laws were ordained. The true ground of civil legislation is the agreement or disagreement of measures with the order and interest of society. That legislation proceeding upon this ground should result in a coincidence between divine and human laws, is neither strange nor alarming. It is inevitable. No can it be supposed that Christian law-givers will be wholly uninfluenced by the consideration that the modes of action upon which they are required to deliberate, are enjoined or prohibited by the law of God. But it is one thing to make a pre-existent divine law the ground of civil legislation, and another thing to make the fact that God has ordained or prohibited an act, the source or one of the sources of our convictions in reference to its social tendencies. And if to prohibit acts which the divine law has

prohibited, be necessarily to pass ecclesiastical laws and consequently to violate the Constitution of the State and of the United States, then constitutions are violated by the laws prohibiting murder, theft and polygamy.

The memorialists do not appear to the committee to be entirely consistent with themselves. They object to Sabbath laws as unconstitutional, because examples of legislating upon religious subjects, and because they determine "when a man shall work and when he shall rest," and yet they profess to approve of "a simple enactment prohibiting all unnecessary labor on Sunday, except in the case of those who keep the seventh day as the Sabbath;" so that they have no objections to ecclesiastical laws providing that their preferences are consulted by said laws.

The authors of our Sabbath laws are not chargeable with having determined that the first day of the week is the Sabbath, and thus settled by legislative authority a theological question. This point was settled anterior to any legislation upon the subject. They merely ordained that the people should be protected in the enjoyment of the privileges with which the Sabbath is fraught, assuming the theological question to be settled by the only competent authority—the religious convictions of the people.

The committee would respectfully suggest that the recognition of some day as the Sabbath by the public authorities is of absolute necessity, as otherwise the public conscience might be broken down, and millions of American citizens virtually deprived of the rights of suffrage, by the appointment of public elections to be held in Sabbatic time. Nor can the public recognition of the first day of the week as the Sabbath be regarded as a sectarian measure, inasmuch as there are few articles of belief more Catholic among American Christians, and citizens generally, than that by which this day is consecrated.

The committee sympathize with the memorialists in their difficulties, and would gladly concur in some feasible plan of relief, but they are not convinced of the expediency of the bill offered for their concurrence. It appears to involve the principle that Sabbath days may be multiplied in the eye of the law, and that each and all of them may be legally subject to such violence as frustrate their designs. It appears to us to be a virtual nullification of our Sabbath laws. We fear that in passing it through sympathy with the few, we should be doing injustice to the multitude. Besides, the law proposed to be superceded does no violation to the consciences of the memorialists. It does not require them to desecrate their Sabbath, but merely to pay some respect to the consciences and rights of the great body of the American citizens. Nor can we overlook the fact, that we are asked to protect them from the penal consequences of violating a law by making them exceptions to its obligations.

Your committee, therefore, report the bill referred to them, with a negative recommendation.

The committee offer the following resolution:

Resolved, That hereafter the whole amount of the several forfeitures in money accruing and becoming due, under the provisions of the act of 22d April, 1794, entitled "An Act for the prevention of vice and immorality, and of unlawful gaming, and to restrain disorderly sports and dissipation," shall be paid to the overseers of the poor of the city, borough or township, wherein the offence shall be committed, for the use of the poor thereof; and that so much of the twelfth section of said act as gives one moiety of said forfeitures to the person or persons prosecuting for the same, is hereby repealed: *Provided*, That all other provisions of the said act shall remain in full force and effect.

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